

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,  
RESPONDENT  
vs.**

**SHAWN K. HOUGARDY,  
APPELLANT**

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DOCKET NUMBER WD74913

DATE: April 2, 2013

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Appeal from:

The Circuit Court of Lafayette County, Missouri  
The Honorable Dennis A. Rolf, Judge

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Appellate Judges:

Division Three: Cynthia L. Martin, P.J., Joseph M. Ellis and Gary D. Witt, JJ.

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Attorneys:

Gregory L. Barnes, for Respondent

William J. Swift, for Appellant

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI, RESPONDENT**

**v.**

**SHAWN K. HOUGARDY, APPELLANT**

WD74913

Lafayette County, Missouri

Before Division Three Judges: Cynthia L. Martin, P.J., Joseph M. Ellis and Gary D. Witt, JJ.

Shawn Hougardy appeals from his convictions of one count of attempted manufacture of methamphetamine, § 195.211, one count of resisting a lawful stop, § 575.150, and one count of tampering with physical evidence, § 575.100. Appellant also challenges the trial court's finding that he was a persistent offender.

**AFFIRMED.**

**Division One holds:**

(1) The evidence more than sufficiently established joint possession of the seized items by all three occupants of Appellant's truck, demonstrating that they all had knowledge of and control over the items. Evidence reflected that Appellant was aware of the presence of the items and that they were to be used to manufacture methamphetamine, that he had purchased some of the items knowing they would be used that way, that he had provided money to the others to purchase several of the other items, and that they had jointly decided to flee the police and to throw the items out of the car. Thus, a finding by the jury that Appellant was in constructive possession of the items was supported by the evidence.

(2) Appellant's challenge to his tampering conviction based upon a claim that the police had not begun their investigation into the manufacturing of methamphetamine at the time the items were thrown from his truck has previously been rejected by the Missouri Supreme Court in **State v. Storey**, 901 S.W.2d 886, 895-96 (Mo. banc 1995). The statute contains no requirement that an investigation begin before one can impair it. *Id.*

(3) The necessary pleadings and evidence establishing Appellant's status as a persistent offender were before the trial court. The State's inclusion of the pleadings at the end of Count I rather than standing alone at the beginning or

end of the indictment and its failure to specifically reference § 558.016 in the indictment are of no import.

Opinion by Joseph M. Ellis, Judge

Date: April 2, 2013

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